



March 28, 2007

H.R. 1538 - Wounded Warrior Assistance Act of 2007

Floor Situation

H.R. 1538 is being considered on the floor pursuant to a structured rule. The rule:

- Provides one hour and twenty minutes of debate with one hour equally divided and controlled by the Chairman and Ranking Member of the Committee on Armed Services and twenty minutes equally divided and controlled by the Chairman and Ranking Member of the Committee on Veterans' Affairs.
- Waives all points of order against its consideration except for clause 9 (earmark disclosure requirements) and 10 ("PAYGO") of Rule XXI.
- Provides one motion to recommit with or without instructions.
- Makes in order twelve amendments (See Summaries of Amendments Made in Order by the Rule).
- Permits the Chair to postpone consideration of the concurrent resolution to such time as may be designated by the Speaker.

The bill was introduced by Representative Ike Skelton (D-MO) on March 15, 2007. The legislation was ordered to be reported from the Committee on Armed Services, by a recorded vote of 59-0, on March 20, 2007.

The bill is expected to be considered on the floor on March 28, 2007.

**Note: Ranking Minority Member Duncan Hunter (R-CA) is an original sponsor of H.R. 1538.*

Summary

H.R. 1538 improves the management of medical care, personnel actions, and quality of life issues for members of the Armed Services.

Any injured service member will be assigned 2 professionals to assist with treatment, rehabilitation, and understanding the process that is taking place. A service member that is in outpatient status at a military medical treatment facility will be provided with a

medical care case manager (“manager”). The manager will be responsible, in regards to the service member, for:

- Assisting in understanding the service members’ medical status;
- Assisting in receiving prescribed medical care; and,
- Conducting a review, at least once a week, of the service member’s medical status.

Each manager may not be assigned to more than 17 service members in an outpatient status at any time. The Secretary of Defense (the Secretary”) is required to create a standard training program and curriculum for managers. A person must successfully complete the training before they can assume the duties of a manager.

A service member that is in outpatient status will be assigned a service member advocate. The advocate will:

- Communicate with the service member and with the service member’s family or other individuals designated by the service member;
- Assist with the oversight of the service member’s welfare and quality of life; and,
- Assist the service member in resolving problems involving financial, administrative, personnel, transitional, and other matters.

An advocate may not be assigned more than 30 service members in an outpatient status at any one time. The Secretary is required to create a standard training program and curriculum for advocates. The advocate will perform these duties for the service member until the service member returns to duty, separates from the Armed Services, or retires.

The bill creates a toll-free hotline, maintained by the Secretary of Defense, to collect, maintain, and update information regarding possible deficiencies in the adequacy, quality, and state of repair of medical-related support facilities. The Secretary must disseminate all information widely regarding the existence and availability of the toll-free telephone number to members of the armed forces and their dependents.

After a complaint is logged on the hotline, the Secretary must ensure that:

- The deficiencies referred to in the report are investigated; and,
- If substantiated, a plan of action for remediation of the deficiencies is developed and implemented.

If the Secretary determines that conditions at a facility violate health and safety standards, the Secretary must relocate the occupants of the facility while the violations are corrected.

Pursuant to the bill, if a service member is evacuated from a theater of combat and hospitalized, the Secretary must inform the appropriate Members of Congress. The appropriate Members of Congress refer to the Senators and the Members of the House of Representatives representing the States or districts of the service member's home of record and, if different, the residence of the next of kin. This notification may only take place with the consent of the service member and if the service member is not capable of consent, information and consent may be provided by the next of kin.

H.R. 1538 would require that any service member being considered by a medical evaluation board under the Secretary's supervision have access to a physician or other appropriate health care professional who is independent of the medical evaluation board. The physician or other health care professional assigned to the service member will:

- Serve as an advocate for the best interest of the service member; and,
- Provide the service member with advice and counsel regarding the medical condition of the service member and the findings and recommendations of the medical evaluation board.

The legislation limits the number of service members to 20 that may be assigned to a physical evaluation board liaison officer ("officer") or an assistant physical evaluation board liaison officer. The Secretary is required to create a standard training program and curriculum for officers and a person must successfully complete the training before they can assume the duties of a manager.

The bill requires the Secretary to create a standardized training program and curriculum for persons who are involved in the disability evaluation system. The training will be provided to Commanders, enlisted service members who perform supervisory functions, health care professionals, and other persons with administrative, professional, or technical responsibilities in the disability evaluation system.

**Note: The term 'disability evaluation system' is defined as the "Department of Defense system or process for evaluating the nature of and extent of disabilities affecting service members of the armed services (other than the Coast Guard) and comprised of medical evaluation boards, physical evaluation boards, counseling of service members, and final disposition by appropriate personnel authorities, as operated by the Secretaries of the military departments, and, in the case of the Coast Guard, a similar system or process operated by the Secretary of Homeland Security."*

H.R. 1538 requires the Secretary to submit a report, no later than 90 days after the enactment of this bill, to the appropriate committees in Congress on recommendations for improving the training of advocates, managers, and health care professionals. The report

is required to include specific recommendations to ensure that advocates, managers, and other health care professionals are able to detect early warning signs of post-traumatic stress disorder (PTSD), suicidal tendencies, and other mental health among recovering service members. The Secretary is required to develop a system to track the number of notifications made by managers and advocates to health care professionals regarding early warning signs of PTSD and suicide in recovering service members.

Pursuant to the bill, a service member's medical condition must be permanent and stable before that service member may be removed from the temporary duty retired list.

This bill creates a pilot program to establish the Army Wounded Warrior Battalion ("the Battalion"). The Battalion will be based at an appropriate active duty base with a major medical facility and will be based on the Wounded Warrior Regiment program of the Marine Corps. The Battalion will track and assist service members of the Armed Forces in an outpatient status who are still in need of medical treatment through:

- The course of their treatment;
- Medical and physical evaluation boards;
- Transition back to their parent units; and,
- Medical retirement and subsequent transition into the Department of Veterans Affairs medical system.

The bill requires the Secretary to ensure that each service member who is being separated or retired from the Armed Services receives a plan that:

- Specifies the recommended schedule and milestones for the transition of the service member from military service; and,
- A formal handoff of the service member from the Department of Defense disability system to the Department of Veterans Affairs.

A service member is required to receive this plan before their retirement or separation. The transition plan for a service member must include information and guidance designed to assist the service member in understanding and meeting the schedule and milestones for the service member's transition.

The formal handoff requires that a meeting occurs between representatives of the Secretary concerned and the Secretary of Veterans Affairs concerning the status of the service member.

H.R. 1538 creates a fund in the Treasury known as the "Department of Defense Medical Support Fund," ("the fund"). The fund will be used to support programs and activities relating to the medical treatment, care, rehabilitation, recovery, and support of wounded

and injured service members of the Armed Forces and their return to military service or transition to civilian service, and to support programs and facilities intended to support the families of wounded and injured service members of the Armed Forces.

The bill authorizes \$50 million to the fund for fiscal years 2007 and 2008 to be available through September 30, 2008.

H.R. 1538 requires the Secretary of Defense to submit a report to the Committees on Armed Services in both the Senate and the House of Representatives on the adequacy, suitability, and quality of medical facilities and medical-related support facilities at each military installation within the Department of Defense.

The Secretary of Defense and the Secretary of Veterans Affairs are required to conduct a joint evaluation of the disability evaluation systems used by the Department of Defense and the Department of Veterans Affairs. The joint evaluation will cover:

- Improving the consistency of the 2 disability evaluation systems; and,
- Evaluating the feasibility of, and potential options for, consolidating the 2 systems.

The bill creates the Oversight Board for Wounded Warriors (“the Board”). The Board will be composed of 12 board members, including 2 persons appointed by each of the following:

- The Majority Leader of the Senate;
- The Minority Leader of the Senate;
- The Speaker of the House of Representatives;
- The Minority Leader of the House of Representatives;
- The President of the United States; and,
- The Secretary of Defense.

The members of the Board are required to have sufficient knowledge of, or experience with, the military healthcare system, the disability evaluation system, or the experience of a recovering service member or family of a recovering service member. Each board member will be appointed for a term of 3 years and may be appointed for additional terms.

The board members will provide advice and consent to the Secretary and the Committees of Armed Services of the Senate and the House of Representatives regarding improving the disability systems of the military departments.

The bill requires an annual report from the Secretary to be submitted to the Committees of Armed Services of the Senate and the House of Representatives on the adequacy, suitability, and quality of medical facilities and medical-related support facilities at each military installation within the Department of Defense. The report must include information on the responses relating to hotline tips and calls.

On a quarterly basis, all facilities under the jurisdiction of the Armed Forces that are occupied by recovering service members shall be inspected. The inspection will be conducted by the inspector general of each regional medical command.

H.R. 1538 requires the Secretary of Veterans Affairs to increase the number of resident physicians at Department of Veterans Affairs' hospitals.

Additional Views

"The Administration endorses the goals of the Wounded Warrior Assistance Act of 2007 but believes that this legislation is premature. The President established the Commission on Care for

America's Returning Wounded Warriors and the Task Force on Returning Global War on Terror

Heroes to help ensure the most effective utilization of resources to provide the highest quality of care to those who served in the Global War on Terror. It would be preferable for Congress to wait for the recommendations of this Commission and Task Force – scheduled to report no later than July 31 – before legislating." Statement of Administration Policy regarding H.R. 1538 issued on March 27, 2007.

Background

A Washington Post article from February 18, 2007, described the conditions at Walter Reed National Army Medical Center. These conditions were substandard for the wounded warriors receiving treatment at Walter Reed. This medical center is where many of our wounded service members receive medical attention and treatment. H.R. 1538 is the first step taken to ensure that our wounded soldiers receive the proper medical care they deserve.

Walter Reed serves more than 150,000 active and retired personnel from all branches of the military.

During the 108th and 109th Congresses, staff from the House Armed Services Committee conducted more than 170 site visits to military medical centers and 1,000 private listening sessions with wounded military personnel and their families.

Cost

The principal budgetary impact of H.R. 1538 would be discretionary costs for developing and implementing a single medical information system for DoD and VA. Such a system could potentially cost billions of dollars, but CBO does not have sufficient information at this time to complete an estimate of those costs. Ultimately, the cost of such a new system would depend on how the two departments choose to implement the bill's requirements and would be subject to appropriation of the necessary amounts.

CBO estimates that implementing the remainder of H.R. 1538 would require the appropriation of \$100 million in 2008 and \$315 million over the 2008-2012 period. CBO estimates that appropriation of those amounts would result in discretionary outlays of \$66 million in 2008 and about \$300 million over the 2008-2012 period.

In addition, CBO estimates that H.R. 1538 would have an insignificant effect on direct spending and would have no effect on revenues.

Additional Resources

[Washington Post Article](#) – February 17, 2007

Amendments Made in Order under the Rule

23 Rep. Ike Skelton (D-MO) Manager's Amendment The amendment would make technical changes in section 101 to clarify the qualification of military officers who may supervise medical care case managers and in section 107 to require that the tracking system for reports to medical authorities regarding wounded warrior symptoms of post-traumatic stress disorder or suicidal tendencies be developed not later than 180 days after the date of enactment and that the results be included in the Congressional reporting requirement.

#27 Rep. John Barrow (D-GA) The amendment eliminates the deductible and changes the method of determining the mileage reimbursement rate under the beneficiary travel program administered by the Secretary of Veterans' Affairs. The reimbursement rate will be increased to the level at which Government employees are reimbursed for the use of privately owned vehicles on official business.

#4 Rep. John Kline (R-MN) This amendment directs the Secretary of Defense to ensure that \$10,000,000 is directed to support programs, activities, and facilities associated with the Marine Corps Wounded Warrior Regiment program from the Medical Support Fund created by this bill.

#8 Reps. Joe Sestak (D-PA)/Patrick Kennedy (D-RI) The amendment adds a definition to Sec. 2 to clarify that "medical care" includes mental health care and substance abuse care.

#16 Rep. Corinne Brown (D-FL) This amendment will ensure confidentiality for members of the military who call the hotline for help.

#13 Rep. Eddie Bernice Johnson (D-TX) The amendment strengthens language that professionals' training be "improved" rather than "modified," and it also includes depression to be specifically listed along with Post-Traumatic Stress Disorder and suicidal tendencies as health conditions of particular note.

#19 Reps. Patrick Kennedy (D-RI)/Joe Sestak (D-PA) This amendment would require the Secretary of the Department of Defense to develop and implement a plan to help prevent Post-Traumatic Stress Disorder and other stress-related psychopathologies (including substance abuse conditions) from developing in our military service members. In addition, this amendment would establish a new Peer-Reviewed research program within the Defense Health Program's research and development function to research the prevention of Post-Traumatic Stress Disorder and how to best strengthen the psychological resiliency of our military service members.

#25 Rep. Darlene Hooley (D-OR) The Amendment would allow National Guardsmen who are deployed from states without military bases to report for treatment of minor injuries at the nearest military treatment facility to their home of record within 30 days of redeployment, rather than at the original base of deployment.

#9 Rep. Jen Hensarling (R-TX) This amendment would direct the Secretary of Veterans Affairs to conduct a study to determine what the average length of time is between the date for which a veteran requests an appointment and the date he is able to receive care. This amendment also requires that the Secretary report back to Congress within 90 days with recommendations as to how this time could be decreased to 15 days.

#5 Rep. Bilirakis (R-FL) This amendment creates an office of the ombudsman within the Office of the Secretary of Defense which would develop policies for the military departments on providing assistance to recovering service members and their families.

#3 Rep. Buchanan (R-FL) The amendment would direct the Secretary of Defense to submit to Congress a report on the feasibility of a Soldier Patient Tracking System so any patient can be located in the medical holdover (MHO) process.

#15 Rep. Peter Welch (D-VT) The amendment requires that the Secretary concerned provide the medical care managers and service member advocates with all the resources they need to expeditiously carry out their work. The amendment would also require the Department of Defense to conduct outreach to inform all service members and their families about the existence of and services available to them by the medical care managers and service member advocates contained in the bill.

Staff Contact

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